

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PEARSON EDUCATION, INC., :
JOHN WILEY & SONS, INC., :
CENGAGE LEARNING INC. AND :
THE MCGRAW-HILL COMPANIES, INC., :
:
Plaintiffs,
:
-against- : 08 Civ. 7413 (GBD)
:
EDGAR BOBADILLA D/B/A BERGH D/B/A
LUIS BERGH D/B/A BERGH123 D/B/A :
NEWBERGH123 D/B/A MATT OSBERT
AND JOHN DOES NOS. 1-5, :
:
Defendants. :

- - - - -x

PLAINTIFFS' EX PARTE APPLICATION FOR AN
ORDER ALLOWING SERVICE BY E-MAIL ON
DEFENDANT EDGAR BOBADILLA AND AUTHORIZING
THE ISSUANCE OF SUBPOENAS TO DETERMINE THE
IDENTITY AND LOCATION OF DEFENDANTS

Plaintiffs hereby move pursuant to Rules 4(e)(1) and 26(d) of the Federal Rules of Civil Procedure for an order (i) allowing service by e-mail of the summons, complaint, Individual Practices, ECF Instructions, and the Order for the Initial Pretrial Conference on defendant Edgar Bobadilla d/b/a Bergh d/b/a Luis Bergh d/b/a Bergh123 d/b/a Newbergh123 d/b/a Matt Osbert ("Babadilla"), and (ii) authorizing plaintiffs to serve subpoenas on PayPal, Inc. and Google Inc. to determine the identities and locations of defendants, which are presently unknown to plaintiffs.

The basis for this application is set forth in the accompanying declaration of William Dunnegan, sworn to August 29, 2008.

A proposed order is annexed.

Dated: New York, New York
August 29, 2008

DUNNEGAN LLC

By 

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Attorneys for Plaintiffs

Pearson Education, Inc.,

John Wiley & Sons, Inc.,

Cengage Learning Inc. and

The McGraw-Hill Companies, Inc.

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AND JOHN DOES NOS. 1-5, :

Defendants. :

ORDER ALLOWING SERVICE BY E-MAIL AND
SERVICE OF SUBPOENAS TO ASCERTAIN THE
IDENTITY AND LOCATION OF DEFENDANTS

Upon the application of plaintiffs Pearson Education, Inc., John Wiley & Sons, Inc., Cengage Learning Inc., and The McGraw-Hill Companies, Inc. as set forth in the annexed declaration of William Dunnegan, dated August 29, 2008, for an order (i) pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure allowing service by e-mail of the summons, complaint, Individual Practices, EFC Instructions, and the Order for the Initial Pretrial Conference on defendant Edgar Bobadilla d/b/a Bergh d/b/a Luis Bergh d/b/a Bergh123 d/b/a Newbergh123 d/b/a Matt Osbert ("Bobadilla") in this action, and (ii) pursuant to

Rule 26(d) of the Federal Rules of Civil Procedure allowing service of subpoenas on PayPal, Inc. ("PayPal") and Google Inc. ("Google") to ascertain the true identities and locations of defendants Bobadilla and John Doe Nos. 1-5, and good cause for that relief appearing, it is hereby

ORDERED, pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, that plaintiffs may serve the summons, complaint, Individual Practices, EFC Instructions, and the Order for the Initial Pretrial Conference in this action upon defendant Bobadilla by e-mailing a copy of each, along with a copy of this order, in .pdf format to the e-mail addresses newbergh123@yahoo.com, mattosbw1@gmail.com and berghpayment@yahoo.com; and it is further

ORDERED that service shall be deemed complete upon the filing of a declaration with the Clerk of the Court affirming that the e-mail has been sent in conformity with this order; and it is further

ORDERED, pursuant to Rule 26(d) of the Federal Rules of Civil Procedure, that plaintiffs may serve subpoenas on PayPal and Google to identify and locate defendants Bobadilla and John Doe Nos. 1-5 in this action.

Dated: New York, New York
September __, 2008

U.S.D.J.